

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA,

Criminal No. 18-150 (DWF/HB)

Plaintiff,

ORDER

v.

MICHAEL HARI,

Defendant.

Defendant, Michael Hari (“Hari”) was scheduled for trial on April 27, 2020. In light of the COVID-19 pandemic, and the Court, having consulted with the Parties, Hari’s trial is postponed until July 27, 2020. A hearing to address arguments related to attorney client privilege and 404(b) issues will be held on June 22, 2020 at 9:30 a.m., Courtroom 7C, 7th Floor, Warren E. Burger Federal Building and United States Courthouse, 316 North Robert Street, St. Paul, Minnesota before Judge Donovan W. Frank. A pre-trial conference will be held on July 17, 2020 at 1:30 p.m., Courtroom 7C, 7th Floor, Warren E. Burger Federal Building and United States Courthouse, 316 North Robert Street, St. Paul, Minnesota to address any remaining issues. All trial documents must be submitted by noon on July 10, 2020.

On March 13, 2020, the Chief Judge of the U.S. District Court for the District of Minnesota entered a General Order continuing all jury trials through April 27, 2020 and continuing all trial specific deadlines in criminal cases through April 27, 2020. See General Order in re: Court Operations Created by the Exigent Circumstances of

COVID-19 (March 13, 2020).¹ Subsequently, on March 17, 2020, the Chief Judge of the U.S. District Court for the District of Minnesota entered General Order No. 2 continuing all criminal proceedings, including grand juries, through April 16, 2020.² See General Order No. 2 in re: Court Operations Created by the Exigent Circumstances of COVID-19 (March 17, 2020).

These General Orders, which are hereby incorporated by reference, were imposed based on: (1) the President declaring a national state of emergency in response to COVID-19; (2) the Governor of the State of Minnesota declaring a peacetime emergency to coordinate strategy to protect Minnesotans from COVID-19; (3) the strong advice to avoid gatherings of more than 10 people; (3) the COVID-19 restrictions imposed by local detention facilities that severely reduced the ability of pretrial detainees to have a meaningful consultation with legal counsel; and (4) the COVID-19 restrictions imposed by the Bureau of Prisons that suspended most inmate facility transfers for 30 days.

Specifically, Order No. 2 states the following concerning the Speedy Trial Act:

The Court finds that the time of the continuances implemented by this order will be excluded under the Speedy Trial Act, as the Court specifically finds that the ends of justice are served by ordering the continuances and outweigh the best interests of the public and of the criminal defendants

¹ All General Orders related to the COVID-19 outbreak may be found on the court's website at www.mnd.uscourts.gov.

² General Order No. 2 included the following provisions:

- b. All existing pretrial deadlines are continued until April 16, 2020. Hearings on pretrial motions will also be continued, to be rescheduled by the presiding judge.
- c. All other criminal proceedings, including pleas, sentencing, and hearings on the revocation of supervised release, scheduled to begin before April 16, 2020, are continued and will be rescheduled by the presiding judge.

under 18 U.S.C. § 3161(h)(7)(A). Absent further order of the Court or any individual judge, the period of exclusion shall be from March 17, 2020, to April 16, 2020. The Court may extend the period of exclusion as circumstances may warrant.

For the reasons addressed in the General Orders dated March 13, 2020, and March 17, 2020, and the well-documented concerns about COVID-19, the Court specifically finds that the ends of justice served by ordering the extension outweighs the best interests of the public and any defendant's right to a speedy trial, under 18 U.S.C. § 3161(h)(7)(A). In addition, under 18 U.S.C. § 3161(h)(7)(B)(i), the Court finds that a miscarriage of justice would result if time were not excluded under these unique circumstances. Accordingly, the time period between March 17, 2020, and July 27, 2020, will be excluded under the Speedy Trial Act, absent further order of the Court.

ORDER

1. The Jury Trial shall commence on July 27, 2020 at 9:00 a.m., Courtroom 7C, 7th Floor, Warren E. Burger Federal Building and United States Courthouse, 316 North Robert Street, St. Paul.
2. A hearing to address arguments related to attorney client privilege and 404(b) issues will be held on June 22, 2020 at 9:30 a.m., Courtroom 7C, 7th Floor, Warren E. Burger Federal Building and United States Courthouse, 316 North Robert Street, St. Paul, Minnesota before Judge Donovan W. Frank.
3. A pre-trial conference will be held on July 17, 2020 at 1:30 p.m., Courtroom 7C, 7th Floor, Warren E. Burger Federal Building and United States

Courthouse, 316 North Robert Street, St. Paul, Minnesota to address any remaining issues.

4. All trial documents must be submitted by noon on July 10, 2020. Counsel must adhere to the following schedule regarding the submission of trial documents:

a. All trial documents, including trial briefs, motions in limine, voir dire questions, and proposed Jury Instructions shall be submitted, pursuant to the Electronic Case Filing Procedures for the District of Minnesota/Criminal and according to the directives of the Honorable Donovan W. Frank, no later than noon on July 10, 2020;

Two courtesy copies of all trial documents, and one courtesy copy of all trial exhibits, plus one electronic version of trial exhibits, shall be contemporaneously provided to the Court. The paper copy should be tabbed for easy identification, and if voluminous placed in labeled three-ring notebooks. Additionally, the parties may wish to consider organizing the paper copy by witness; this is generally helpful in trials with voluminous exhibits.

b. By the same date, proposed exhibit and witness lists, Jury Instructions, and voir dire questions (in Word format) shall be e-mailed to the chambers e-mail box (Frank_Chambers@mnd.uscourts.gov); and

c. By the same date, counsel for the prosecution shall submit a copy of the indictment or information (in Word format) to the chambers e-mail box.

5. Consistent with the Court's findings above, the time period between March 17, 2020 and July 27, 2020 shall be excluded under the Speedy Trial Act, absent further order of the Court.

Dated: April 7, 2020

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge